IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIFTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO: 20275 of 2004

Between:

Bhavani Apartments-III Owners Welfare Association No 1304/96, Balayya

Sastry Layout, Visakhapatnam-13
Rep by Secrtary, V. Somasekhar Rao R/o Bhavani Apartments-III,

Visakhapatnam-13.

... PETITIONER

AND

1 The Principal Secretary, Municipal Administration and Urban Development,

Secretariat, Buildings, Hyderabad
2 The Municipal Commissioner, Municipal Corporation of Visakhapatnam,

Visakhapatnam.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, order or direction, more particularly one in the nature of Writ of Mandamus declaring the inaction of the 1st respondent in not disposing of the application of the petitioner dt 9-4-98as highly arbitrary, illegal and violation of Art 14 of Constitution of India and consequentially direct the 1st respondent to consider and dispose of the application of the petitioner dt 9-4-98 in respect of the Bhavani Apartments-III, Balayya Sastry layout, Visakhapatnam, in the light of the Andhra Pradesh Regularisation of the Unauthorised Constructons in Municipal Corporations, Municipalities and Urban

Development Act, 2003, by regularisation the deviations from sanctioned plan.

Counsel for the Petitioner: MR.T.M.K.CHAITANYA

Counsel for the Respondent No.1: GP FOR MUNCIPAL ADMN. & URBAN DEV., Counsel for Respondent No.2: Mr. T. S. Venkataramana, S.C. for V.M.C.

The Court, at the admission stage, made the following:

ORDER:

Heard the learned counsel for the petitioner and also the learned Government Pleader appearing on behalf of the respondents. Both the counsel agreed to dispose of the writ petition with a direction to consider the representation made by the petitioner association in accordance with law.

2. Petitioners who are purchasers having purchased an extent of Ac.1214 Sq. yards in Plot Nos.152, 153 in T.S.No.18 part of Allipuram ward, obtained permission from the Municipality vide BA.No.1443/91/ACP.II dated 15-07-1992 and constructed 36 flats instead of 20 units on relaxing zonal regulations in respect of FSI (1 + 4 floors). Thereafter, when the municipal officials inspected the site, the flat owners approached the promoter and the promoter filed a suit on issuance of notice in O.S.No.710/1984 on the file of the IVth Addl. Junior Civil Judge, Visakhapatnam in which the petitioner society got impleaded. The suit was dismissed and the appeal filed against the same is still pending. Meanwhile, the petitioner association filed a representation on 09-04-1998 for regularization of the unauthorized construction, if any, and the Government in Memo No.8537/M2/98-1 dated 18-04-1998 marked the same to the Commissioner, Municipal Corporation, Visakhapatnam for detailed report together with specific recommendations for such regularization, if any.

3. In view of the same, respondents are hereby directed to pass appropriate orders on the representation made by the petitioner

society on receipt of recommendations, within a period of four months from the date of receipt of a copy of this order.

The writ petition is accordingly disposed of. No costs.

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A. **GOPAL REDDY, J**

November 6, 2004

MRR

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To:s

1 The Principal Secretary, Municipal Administration and Urban Development, Secretariat, Buildings, Hyderabad

2 The Municipal Commissioner, Municipal Corporation of Visakhapatnam, Visakhapatnam.

3 Two C.C. s to the G.P. for Municipal Administration and Urban Development, High Court Buildings, Hyderabad (OUT).

4 Two C.D. Copies.